

## **IC 27-16-3**

### **Chapter 3. Effect on Rights, Duties, and Obligations**

#### **IC 27-16-3-1**

##### **Effect on collective bargaining agreement or federal rights or obligations**

Sec. 1. This article and a professional employer agreement do not affect, modify, or amend:

- (1) a collective bargaining agreement; or
- (2) rights or obligations of a client, PEO, or covered employee under:
  - (A) the federal National Labor Relations Act (29 U.S.C. 151 et seq.);
  - (B) the federal Railway Labor Act (45 U.S.C. 151 et seq.);
  - or
  - (C) IC 22-7.

*As added by P.L.245-2005, SEC.7.*

#### **IC 27-16-3-2**

##### **Effect on duties**

Sec. 2. This article and a professional employer agreement do not do the following:

- (1) Diminish, abolish, or remove the obligations of a client to a covered employee that exist before the effective date of the professional employer agreement.
- (2) Affect, modify, or amend a contractual relationship or restrictive covenant:
  - (A) between a covered employee and a client that is in effect on the effective date of the professional employer agreement; or
  - (B) that is entered into between a client and a covered employee after the effective date of the professional employer agreement.

A PEO is not responsible or liable for a dispute in connection with or arising out of a contractual relationship or restrictive covenant described in this subdivision unless the PEO has otherwise specifically agreed in writing.

- (3) Create a new or additional enforceable right of a covered employee against a PEO that is not specifically provided by the professional employer agreement or this article.

*As added by P.L.245-2005, SEC.7.*

#### **IC 27-16-3-3**

##### **Effect on federal, state, or local requirements**

Sec. 3. (a) This article and a professional employer agreement do not affect, modify, or amend a federal, state, or local:

- (1) license;
- (2) registration; or
- (3) certification;

requirement that applies to a client or covered employee.

(b) The following apply to a federal, state, or local requirement described in subsection (a):

(1) A covered employee who is required to be licensed, registered, or certified is considered solely an employee of the client for purposes of a license, registration, or certification requirement.

(2) A PEO is not considered to engage in an occupation, a trade, a profession, or another activity that is:

(A) subject to a license, registration, or certification requirement; or

(B) otherwise regulated by a governmental entity; solely because the PEO has entered into and maintained a co-employment relationship with a covered employee who is subject to a requirement or regulation described in clause (A) or (B).

(3) A client has the sole right of direction and control of the professional or licensed activities of a covered employee and of the client's business.

(4) Only a:

(A) covered employee; or

(B) client;

that is subject to a requirement or regulation described in subdivision (2)(A) or (2)(B) is subject to the regulation by a regulatory or governmental entity responsible for licensing, registration, certification, or other regulation of the covered employee or client.

*As added by P.L.245-2005, SEC.7.*

#### **IC 27-16-3-4**

##### **Effect on tax credits and incentives**

Sec. 4. (a) For purposes of the determination of tax credits and other economic incentives:

(1) provided by the state or another governmental entity; and

(2) based on employment;

a covered employee is considered an employee solely of the client.

(b) A client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of a covered employee of the client.

(c) If the grant or amount of an incentive is based on the number of employees a client employs:

(1) each client must be treated as employing only the covered employees actually working in the client's business operations; and

(2) covered employees working for other clients of the PEO must not be counted.

(d) A PEO shall provide, upon request by a client or an agency or a department of the state or of another governmental entity, employment information:

(1) reasonably required by an agency or a department of the state or of another governmental entity that is responsible for

administration of a tax credit or economic incentive described in this section; and

(2) necessary;

to support a request, a claim, an application, or another action by a client seeking a tax credit or an economic incentive.

*As added by P.L.245-2005, SEC.7.*

#### **IC 27-16-3-5**

##### **Effect on government contracts**

Sec. 5. With respect to a bid, a contract, a purchase order, or an agreement entered into with the state or a political subdivision of the state, a client's status or certification as a:

(1) small, minority owned, disadvantaged, or woman owned business enterprise; or

(2) historically underutilized business;

is not affected because the client has entered into the professional employment agreement.

*As added by P.L.245-2005, SEC.7.*